

E2SHB 2353 - S COMM AMD

By Committee on Labor, Commerce, Research & Development

ADOPTED 02/28/2006

1 Strike everything after the enacting clause and insert the
2 following:

3 "PART I - FAMILY CHILD CARE PROVIDERS

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.56 RCW
5 to read as follows:

6 (1) In addition to the entities listed in RCW 41.56.020, this
7 chapter applies to the governor with respect to family child care
8 providers. Solely for the purposes of collective bargaining and as
9 expressly limited under subsections (2) and (3) of this section, the
10 governor is the public employer of family child care providers who,
11 solely for the purposes of collective bargaining, are public employees.
12 The public employer shall be represented for bargaining purposes by the
13 governor or the governor's designee appointed under chapter 41.80 RCW.

14 (2) This chapter governs the collective bargaining relationship
15 between the governor and family child care providers, except as
16 follows:

17 (a) A statewide unit of all family child care providers is the only
18 unit appropriate for purposes of collective bargaining under RCW
19 41.56.060.

20 (b) The exclusive bargaining representative of family child care
21 providers in the unit specified in (a) of this subsection shall be the
22 representative chosen in an election conducted pursuant to RCW
23 41.56.070, except that in the initial election conducted under this
24 act, if more than one labor organization is on the ballot and none of
25 the choices receives a majority of the votes cast, a run-off election
26 shall be held.

27 (c) Notwithstanding the definition of "collective bargaining" in
28 RCW 41.56.030(4), the scope of collective bargaining for child care
29 providers under this section shall be limited solely to: (i) Economic

1 compensation, such as manner and rate of subsidy and reimbursement,
2 including tiered reimbursements; (ii) health and welfare benefits;
3 (iii) professional development and training; (iv) labor-management
4 committees; (v) grievance procedures; and (vi) other economic matters.
5 Retirement benefits shall not be subject to collective bargaining. By
6 such obligation neither party shall be compelled to agree to a proposal
7 or be required to make a concession unless otherwise provided in this
8 chapter.

9 (d) The mediation and interest arbitration provisions of RCW
10 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

11 (i) With respect to commencement of negotiations between the
12 governor and the exclusive bargaining representative of family child
13 care providers, negotiations shall be commenced initially upon
14 certification of an exclusive bargaining representative under (a) of
15 this subsection and, thereafter, by February 1st of any even-numbered
16 year;

17 (ii) In addition to the factors to be taken into consideration by
18 an interest arbitration panel under RCW 41.56.465, the panel shall
19 consider the financial ability of the state to pay for the compensation
20 and benefit provisions of a collective bargaining agreement; and

21 (iii) The decision of the arbitration panel is not binding on the
22 legislature and, if the legislature does not approve the request for
23 funds necessary to implement the compensation and benefit provisions of
24 the arbitrated collective bargaining agreement, is not binding on the
25 state.

26 (e) Family child care providers do not have the right to strike.

27 (3) Family child care providers who are public employees solely for
28 the purposes of collective bargaining under subsection (1) of this
29 section are not, for that reason, employees of the state for any
30 purpose. This section applies only to the governance of the collective
31 bargaining relationship between the employer and family child care
32 providers as provided in subsections (1) and (2) of this section.

33 (4) This section does not create or modify:

34 (a) The parents' or legal guardians' right to choose and terminate
35 the services of any family child care provider that provides care for
36 their child or children;

37 (b) The secretary of the department of social and health services'
38 right to adopt requirements under RCW 74.15.030, except for

1 requirements related to grievance procedures and collective
2 negotiations on personnel matters as specified in subsection (2)(c) of
3 this section;

4 (c) Chapter 26.44 RCW, RCW 43.43.832, 43.20A.205, and 74.15.130;
5 and

6 (d) The legislature's right to make programmatic modifications to
7 the delivery of state services through child care subsidy programs,
8 including standards of eligibility of parents, legal guardians, and
9 family child care providers participating in child care subsidy
10 programs, and the nature of services provided. The governor shall not
11 enter into, extend, or renew any agreement under this section that does
12 not expressly reserve the legislative rights described in this
13 subsection (4)(d).

14 (5) Upon meeting the requirements of subsection (6) of this
15 section, the governor must submit, as a part of the proposed biennial
16 or supplemental operating budget submitted to the legislature under RCW
17 43.88.030, a request for funds necessary to implement the compensation
18 and benefit provisions of a collective bargaining agreement entered
19 into under this section or for legislation necessary to implement such
20 agreement.

21 (6) A request for funds necessary to implement the compensation and
22 benefit provisions of a collective bargaining agreement entered into
23 under this section shall not be submitted by the governor to the
24 legislature unless such request has been:

25 (a) Submitted to the director of financial management by October
26 1st before the legislative session at which the request is to be
27 considered, except that, for initial negotiations under this section,
28 the request must be submitted by November 15, 2006; and

29 (b) Certified by the director of financial management as being
30 feasible financially for the state or reflects the binding decision of
31 an arbitration panel reached under this section.

32 (7) The legislature must approve or reject the submission of the
33 request for funds as a whole. If the legislature rejects or fails to
34 act on the submission, any such agreement will be reopened solely for
35 the purpose of renegotiating the funds necessary to implement the
36 agreement.

37 (8) The governor shall periodically consult with the joint
38 committee on employment relations established by RCW 41.80.010

1 regarding appropriations necessary to implement the compensation and
2 benefit provisions of any collective bargaining agreement and, upon
3 completion of negotiations, advise the committee on the elements of the
4 agreement and on any legislation necessary to implement such agreement.

5 (9) After the expiration date of any collective bargaining
6 agreement entered into under this section, all of the terms and
7 conditions specified in any such agreement remain in effect until the
8 effective date of a subsequent agreement, not to exceed one year from
9 the expiration date stated in the agreement, except as provided in
10 subsection (4)(d) of this section.

11 (10) If, after the compensation and benefit provisions of an
12 agreement are approved by the legislature, a significant revenue
13 shortfall occurs resulting in reduced appropriations, as declared by
14 proclamation of the governor or by resolution of the legislature, both
15 parties shall immediately enter into collective bargaining for a
16 mutually agreed upon modification of the agreement.

17 (11) In enacting this section, the legislature intends to provide
18 state action immunity under federal and state antitrust laws for the
19 joint activities of family child care providers and their exclusive
20 bargaining representative to the extent such activities are authorized
21 by this chapter.

22 **Sec. 2.** RCW 41.56.030 and 2004 c 3 s 6 are each amended to read as
23 follows:

24 As used in this chapter:

25 (1) "Public employer" means any officer, board, commission,
26 council, or other person or body acting on behalf of any public body
27 governed by this chapter, or any subdivision of such public body. For
28 the purposes of this section, the public employer of district court or
29 superior court employees for wage-related matters is the respective
30 county legislative authority, or person or body acting on behalf of the
31 legislative authority, and the public employer for nonwage-related
32 matters is the judge or judge's designee of the respective district
33 court or superior court.

34 (2) "Public employee" means any employee of a public employer
35 except any person (a) elected by popular vote, or (b) appointed to
36 office pursuant to statute, ordinance or resolution for a specified
37 term of office as a member of a multimember board, commission, or

1 committee, whether appointed by the executive head or body of the
2 public employer, or (c) whose duties as deputy, administrative
3 assistant or secretary necessarily imply a confidential relationship to
4 (i) the executive head or body of the applicable bargaining unit, or
5 (ii) any person elected by popular vote, or (iii) any person appointed
6 to office pursuant to statute, ordinance or resolution for a specified
7 term of office as a member of a multimember board, commission, or
8 committee, whether appointed by the executive head or body of the
9 public employer, or (d) who is a court commissioner or a court
10 magistrate of superior court, district court, or a department of a
11 district court organized under chapter 3.46 RCW, or (e) who is a
12 personal assistant to a district court judge, superior court judge, or
13 court commissioner(~~(, or (f) excluded from a bargaining unit under RCW~~
14 ~~41.56.201(2)(a))~~). For the purpose of (e) of this subsection, no more
15 than one assistant for each judge or commissioner may be excluded from
16 a bargaining unit.

17 (3) "Bargaining representative" means any lawful organization which
18 has as one of its primary purposes the representation of employees in
19 their employment relations with employers.

20 (4) "Collective bargaining" means the performance of the mutual
21 obligations of the public employer and the exclusive bargaining
22 representative to meet at reasonable times, to confer and negotiate in
23 good faith, and to execute a written agreement with respect to
24 grievance procedures and collective negotiations on personnel matters,
25 including wages, hours and working conditions, which may be peculiar to
26 an appropriate bargaining unit of such public employer, except that by
27 such obligation neither party shall be compelled to agree to a proposal
28 or be required to make a concession unless otherwise provided in this
29 chapter.

30 (5) "Commission" means the public employment relations commission.

31 (6) "Executive director" means the executive director of the
32 commission.

33 (7) "Uniformed personnel" means: (a) Law enforcement officers as
34 defined in RCW 41.26.030 employed by the governing body of any city or
35 town with a population of two thousand five hundred or more and law
36 enforcement officers employed by the governing body of any county with
37 a population of ten thousand or more; (b) correctional employees who
38 are uniformed and nonuniformed, commissioned and noncommissioned

1 security personnel employed in a jail as defined in RCW 70.48.020(5),
2 by a county with a population of seventy thousand or more, and who are
3 trained for and charged with the responsibility of controlling and
4 maintaining custody of inmates in the jail and safeguarding inmates
5 from other inmates; (c) general authority Washington peace officers as
6 defined in RCW 10.93.020 employed by a port district in a county with
7 a population of one million or more; (d) security forces established
8 under RCW 43.52.520; (e) fire fighters as that term is defined in RCW
9 41.26.030; (f) employees of a port district in a county with a
10 population of one million or more whose duties include crash fire
11 rescue or other fire fighting duties; (g) employees of fire departments
12 of public employers who dispatch exclusively either fire or emergency
13 medical services, or both; or (h) employees in the several classes of
14 advanced life support technicians, as defined in RCW 18.71.200, who are
15 employed by a public employer.

16 (8) "Institution of higher education" means the University of
17 Washington, Washington State University, Central Washington University,
18 Eastern Washington University, Western Washington University, The
19 Evergreen State College, and the various state community colleges.

20 (9) "Home care quality authority" means the authority under chapter
21 74.39A RCW.

22 (10) "Individual provider" means an individual provider as defined
23 in RCW 74.39A.240(4) who, solely for the purposes of collective
24 bargaining, is a public employee as provided in RCW 74.39A.270.

25 (11) "Child care subsidy" means a payment from the state through a
26 child care subsidy program established pursuant to RCW 74.12.340 or
27 74.08A.340, 45 C.F.R. Sec. 98.1 through 98.17, or any successor
28 program.

29 (12) "Family child care provider" means a person who: (a) Provides
30 regularly scheduled care for a child or children in the home of the
31 provider or in the home of the child or children for periods of less
32 than twenty-four hours or, if necessary due to the nature of the
33 parent's work, for periods equal to or greater than twenty-four hours;
34 (b) receives child care subsidies; and (c) is either licensed by the
35 state under RCW 74.15.030 or is exempt from licensing under chapter
36 74.15 RCW.

1 **Sec. 3.** RCW 41.56.113 and 2004 c 3 s 7 are each amended to read as
2 follows:

3 (1) Upon the written authorization of an individual provider or a
4 family child care provider within the bargaining unit and after the
5 certification or recognition of the bargaining unit's exclusive
6 bargaining representative, the state as payor, but not as the employer,
7 shall, subject to subsection (3) of this section, deduct from the
8 payments to an individual provider or a family child care provider the
9 monthly amount of dues as certified by the secretary of the exclusive
10 bargaining representative and shall transmit the same to the treasurer
11 of the exclusive bargaining representative.

12 (2) If the governor and the exclusive bargaining representative of
13 a bargaining unit of individual providers or family child care
14 providers enter into a collective bargaining agreement that:

15 (a) Includes a union security provision authorized in RCW
16 41.56.122, the state as payor, but not as the employer, shall, subject
17 to subsection (3) of this section, enforce the agreement by deducting
18 from the payments to bargaining unit members the dues required for
19 membership in the exclusive bargaining representative, or, for
20 nonmembers thereof, a fee equivalent to the dues; or

21 (b) Includes requirements for deductions of payments other than the
22 deduction under (a) of this subsection, the state, as payor, but not as
23 the employer, shall, subject to subsection (3) of this section, make
24 such deductions upon written authorization of the individual provider
25 or the family child care provider.

26 (3)(a) The initial additional costs to the state in making
27 deductions from the payments to individual providers or family child
28 care providers under this section shall be negotiated, agreed upon in
29 advance, and reimbursed to the state by the exclusive bargaining
30 representative.

31 (b) The allocation of ongoing additional costs to the state in
32 making deductions from the payments to individual providers or family
33 child care providers under this section shall be an appropriate subject
34 of collective bargaining between the exclusive bargaining
35 representative and the governor unless prohibited by another statute.
36 If no collective bargaining agreement containing a provision allocating
37 the ongoing additional cost is entered into between the exclusive
38 bargaining representative and the governor, or if the legislature does

1 not approve funding for the collective bargaining agreement as provided
2 in RCW 74.39A.300 or section 1 of this act, as applicable, the ongoing
3 additional costs to the state in making deductions from the payments to
4 individual providers or family child care providers under this section
5 shall be negotiated, agreed upon in advance, and reimbursed to the
6 state by the exclusive bargaining representative.

7 (4) The governor and the exclusive bargaining representative of a
8 bargaining unit of family child care providers may not enter into a
9 collective bargaining agreement that contains a union security
10 provision unless the agreement contains a process, to be administered
11 by the exclusive bargaining representative of a bargaining unit of
12 family child care providers, for hardship dispensation for license-
13 exempt family child care providers who are also temporary assistance
14 for needy families recipients or WorkFirst participants.

15 **Sec. 4.** RCW 41.04.810 and 2004 c 3 s 3 are each amended to read as
16 follows:

17 Individual providers, as defined in RCW 74.39A.240, and family
18 child care providers, as defined in RCW 41.56.030, are not employees of
19 the state or any of its political subdivisions and are specifically and
20 entirely excluded from all provisions of this title, except as provided
21 in RCW 74.39A.270 and section 1 of this act.

22 **Sec. 5.** RCW 43.01.047 and 2004 c 3 s 4 are each amended to read as
23 follows:

24 RCW 43.01.040 through 43.01.044 do not apply to individual
25 providers under RCW 74.39A.220 through 74.39A.300 or to family child
26 care providers under section 1 of this act.

27 **PART II - FAMILY CHILD CARE LICENSEES**

28 NEW SECTION. **Sec. 6.** A new section is added to chapter 74.15 RCW
29 to read as follows:

30 (1) Solely for the purposes of negotiated rule making pursuant to
31 RCW 34.05.310(2)(a) and 74.15.030, a statewide unit of all family child
32 care licensees is appropriate. As of the effective date of this act,
33 the exclusive representative of family child care licensees in the
34 statewide unit shall be the representative selected as the majority

1 representative in the election held under the directive of the governor
2 to the secretary of the department of social and health services, dated
3 September 16, 2005. If family child care licensees seek to select a
4 different representative thereafter, the family child care licensees
5 may request that the American arbitration association conduct an
6 election and certify the results of the election.

7 (2) In enacting this section, the legislature intends to provide
8 state action immunity under federal and state antitrust laws for the
9 joint activities of family child care licensees and their exclusive
10 representative to the extent such activities are authorized by this
11 chapter.

12 **Sec. 7.** RCW 74.15.020 and 2001 c 230 s 1, 2001 c 144 s 1, and 2001
13 c 137 s 3 are each reenacted and amended to read as follows:

14 For the purpose of this chapter (~~(74.15-RCW)~~) and RCW 74.13.031,
15 and unless otherwise clearly indicated by the context thereof, the
16 following terms shall mean:

17 (1) "Agency" means any person, firm, partnership, association,
18 corporation, or facility which receives children, expectant mothers, or
19 persons with developmental disabilities for control, care, or
20 maintenance outside their own homes, or which places, arranges the
21 placement of, or assists in the placement of children, expectant
22 mothers, or persons with developmental disabilities for foster care or
23 placement of children for adoption, and shall include the following
24 irrespective of whether there is compensation to the agency or to the
25 children, expectant mothers or persons with developmental disabilities
26 for services rendered:

27 (a) "Child day-care center" means an agency which regularly
28 provides care for a group of children for periods of less than twenty-
29 four hours;

30 (b) "Child-placing agency" means an agency which places a child or
31 children for temporary care, continued care, or for adoption;

32 (c) "Community facility" means a group care facility operated for
33 the care of juveniles committed to the department under RCW 13.40.185.
34 A county detention facility that houses juveniles committed to the
35 department under RCW 13.40.185 pursuant to a contract with the
36 department is not a community facility;

1 (d) "Crisis residential center" means an agency which is a
2 temporary protective residential facility operated to perform the
3 duties specified in chapter 13.32A RCW, in the manner provided in RCW
4 74.13.032 through 74.13.036;

5 (e) "Emergency respite center" is an agency that may be commonly
6 known as a crisis nursery, that provides emergency and crisis care for
7 up to seventy-two hours to children who have been admitted by their
8 parents or guardians to prevent abuse or neglect. Emergency respite
9 centers may operate for up to twenty-four hours a day, and for up to
10 seven days a week. Emergency respite centers may provide care for
11 children ages birth through seventeen, and for persons eighteen through
12 twenty with developmental disabilities who are admitted with a sibling
13 or siblings through age seventeen. Emergency respite centers may not
14 substitute for crisis residential centers or HOPE centers, or any other
15 services defined under this section, and may not substitute for
16 services which are required under chapter 13.32A or 13.34 RCW;

17 (f) "Family day-care provider" means a child day-care provider who
18 regularly provides child day care for not more than twelve children in
19 the provider's home in the family living quarters;

20 (g) "Foster-family home" means an agency which regularly provides
21 care on a twenty-four hour basis to one or more children, expectant
22 mothers, or persons with developmental disabilities in the family abode
23 of the person or persons under whose direct care and supervision the
24 child, expectant mother, or person with a developmental disability is
25 placed;

26 (h) "Group-care facility" means an agency, other than a foster-
27 family home, which is maintained and operated for the care of a group
28 of children on a twenty-four hour basis;

29 (i) "HOPE center" means an agency licensed by the secretary to
30 provide temporary residential placement and other services to street
31 youth. A street youth may remain in a HOPE center for thirty days
32 while services are arranged and permanent placement is coordinated. No
33 street youth may stay longer than thirty days unless approved by the
34 department and any additional days approved by the department must be
35 based on the unavailability of a long-term placement option. A street
36 youth whose parent wants him or her returned to home may remain in a
37 HOPE center until his or her parent arranges return of the youth, not

1 longer. All other street youth must have court approval under chapter
2 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

3 (j) "Maternity service" means an agency which provides or arranges
4 for care or services to expectant mothers, before or during
5 confinement, or which provides care as needed to mothers and their
6 infants after confinement;

7 (k) "Responsible living skills program" means an agency licensed by
8 the secretary that provides residential and transitional living
9 services to persons ages sixteen to eighteen who are dependent under
10 chapter 13.34 RCW and who have been unable to live in his or her
11 legally authorized residence and, as a result, the minor lived outdoors
12 or in another unsafe location not intended for occupancy by the minor.
13 Dependent minors ages fourteen and fifteen may be eligible if no other
14 placement alternative is available and the department approves the
15 placement;

16 (l) "Service provider" means the entity that operates a community
17 facility.

18 (2) "Agency" shall not include the following:

19 (a) Persons related to the child, expectant mother, or person with
20 developmental disability in the following ways:

21 (i) Any blood relative, including those of half-blood, and
22 including first cousins, nephews or nieces, and persons of preceding
23 generations as denoted by prefixes of grand, great, or great-great;

24 (ii) Stepfather, stepmother, stepbrother, and stepsister;

25 (iii) A person who legally adopts a child or the child's parent as
26 well as the natural and other legally adopted children of such persons,
27 and other relatives of the adoptive parents in accordance with state
28 law;

29 (iv) Spouses of any persons named in (i), (ii), or (iii) of this
30 subsection (2)(a), even after the marriage is terminated; or

31 (v) Extended family members, as defined by the law or custom of the
32 Indian child's tribe or, in the absence of such law or custom, a person
33 who has reached the age of eighteen and who is the Indian child's
34 grandparent, aunt or uncle, brother or sister, brother-in-law or
35 sister-in-law, niece or nephew, first or second cousin, or stepparent
36 who provides care in the family abode on a twenty-four-hour basis to an
37 Indian child as defined in 25 U.S.C. Sec. 1903(4);

1 (b) Persons who are legal guardians of the child, expectant mother,
2 or persons with developmental disabilities;

3 (c) Persons who care for a neighbor's or friend's child or
4 children, with or without compensation, where: (i) The person
5 providing care for periods of less than twenty-four hours does not
6 conduct such activity on an ongoing, regularly scheduled basis for the
7 purpose of engaging in business, which includes, but is not limited to,
8 advertising such care; or (ii) the parent and person providing care on
9 a twenty-four-hour basis have agreed to the placement in writing and
10 the state is not providing any payment for the care;

11 (d) Parents on a mutually cooperative basis exchange care of one
12 another's children;

13 (e) A person, partnership, corporation, or other entity that
14 provides placement or similar services to exchange students or
15 international student exchange visitors or persons who have the care of
16 an exchange student in their home;

17 (f) A person, partnership, corporation, or other entity that
18 provides placement or similar services to international children who
19 have entered the country by obtaining visas that meet the criteria for
20 medical care as established by the United States immigration and
21 naturalization service, or persons who have the care of such an
22 international child in their home;

23 (g) Nursery schools or kindergartens which are engaged primarily in
24 educational work with preschool children and in which no child is
25 enrolled on a regular basis for more than four hours per day;

26 (h) Schools, including boarding schools, which are engaged
27 primarily in education, operate on a definite school year schedule,
28 follow a stated academic curriculum, accept only school-age children
29 and do not accept custody of children;

30 (i) Seasonal camps of three months' or less duration engaged
31 primarily in recreational or educational activities;

32 (j) Hospitals licensed pursuant to chapter 70.41 RCW when
33 performing functions defined in chapter 70.41 RCW, nursing homes
34 licensed under chapter 18.51 RCW and boarding homes licensed under
35 chapter 18.20 RCW;

36 (k) Licensed physicians or lawyers;

37 (l) Facilities providing care to children for periods of less than

1 twenty-four hours whose parents remain on the premises to participate
2 in activities other than employment;

3 (m) Facilities approved and certified under chapter 71A.22 RCW;

4 (n) Any agency having been in operation in this state ten years
5 prior to June 8, 1967, and not seeking or accepting moneys or
6 assistance from any state or federal agency, and is supported in part
7 by an endowment or trust fund;

8 (o) Persons who have a child in their home for purposes of
9 adoption, if the child was placed in such home by a licensed child-
10 placing agency, an authorized public or tribal agency or court or if a
11 replacement report has been filed under chapter 26.33 RCW and the
12 placement has been approved by the court;

13 (p) An agency operated by any unit of local, state, or federal
14 government or an agency, located within the boundaries of a federally
15 recognized Indian reservation, licensed by the Indian tribe;

16 (q) A maximum or medium security program for juvenile offenders
17 operated by or under contract with the department;

18 (r) An agency located on a federal military reservation, except
19 where the military authorities request that such agency be subject to
20 the licensing requirements of this chapter.

21 (3) "Department" means the state department of social and health
22 services.

23 (4) "Family child care licensee" means a person who: (a) Provides
24 regularly scheduled care for a child or children in the home of the
25 provider for periods of less than twenty-four hours or, if necessary
26 due to the nature of the parent's work, for periods equal to or greater
27 than twenty-four hours; (b) does not receive child care subsidies; and
28 (c) is licensed by the state under RCW 74.15.030.

29 (5) "Juvenile" means a person under the age of twenty-one who has
30 been sentenced to a term of confinement under the supervision of the
31 department under RCW 13.40.185.

32 ((+5)) (6) "Probationary license" means a license issued as a
33 disciplinary measure to an agency that has previously been issued a
34 full license but is out of compliance with licensing standards.

35 ((+6)) (7) "Requirement" means any rule, regulation, or standard
36 of care to be maintained by an agency.

37 ((+7)) (8) "Secretary" means the secretary of social and health
38 services.

1 (~~(8)~~) (9) "Street youth" means a person under the age of eighteen
2 who lives outdoors or in another unsafe location not intended for
3 occupancy by the minor and who is not residing with his or her parent
4 or at his or her legally authorized residence.

5 (~~(9)~~) (10) "Transitional living services" means at a minimum, to
6 the extent funds are available, the following:

7 (a) Educational services, including basic literacy and
8 computational skills training, either in local alternative or public
9 high schools or in a high school equivalency program that leads to
10 obtaining a high school equivalency degree;

11 (b) Assistance and counseling related to obtaining vocational
12 training or higher education, job readiness, job search assistance, and
13 placement programs;

14 (c) Counseling and instruction in life skills such as money
15 management, home management, consumer skills, parenting, health care,
16 access to community resources, and transportation and housing options;

17 (d) Individual and group counseling; and

18 (e) Establishing networks with federal agencies and state and local
19 organizations such as the United States department of labor, employment
20 and training administration programs including the job training
21 partnership act which administers private industry councils and the job
22 corps; vocational rehabilitation; and volunteer programs.

23 **Sec. 8.** RCW 74.15.030 and 2005 c 490 s 11 are each amended to read
24 as follows:

25 The secretary shall have the power and it shall be the secretary's
26 duty:

27 (1) In consultation with the children's services advisory
28 committee, and with the advice and assistance of persons representative
29 of the various type agencies to be licensed, to designate categories of
30 facilities for which separate or different requirements shall be
31 developed as may be appropriate whether because of variations in the
32 ages, sex and other characteristics of persons served, variations in
33 the purposes and services offered or size or structure of the agencies
34 to be licensed hereunder, or because of any other factor relevant
35 thereto;

36 (2) In consultation with the children's services advisory
37 committee, and with the advice and assistance of persons representative

1 of the various type agencies to be licensed, to adopt and publish
2 minimum requirements for licensing applicable to each of the various
3 categories of agencies to be licensed.

4 The minimum requirements shall be limited to:

5 (a) The size and suitability of a facility and the plan of
6 operation for carrying out the purpose for which an applicant seeks a
7 license;

8 (b) The character, suitability and competence of an agency and
9 other persons associated with an agency directly responsible for the
10 care and treatment of children, expectant mothers or developmentally
11 disabled persons. In consultation with law enforcement personnel, the
12 secretary shall investigate the conviction record or pending charges
13 and dependency record information under chapter 43.43 RCW of each
14 agency and its staff seeking licensure or relicensure. No unfounded
15 allegation of child abuse or neglect as defined in RCW 26.44.020 may be
16 disclosed to a child-placing agency, private adoption agency, or any
17 other provider licensed under this chapter. In order to determine the
18 suitability of applicants for an agency license, licensees, their
19 employees, and other persons who have unsupervised access to children
20 in care, and who have not resided in the state of Washington during the
21 three-year period before being authorized to care for children shall be
22 fingerprinted. The fingerprints shall be forwarded to the Washington
23 state patrol and federal bureau of investigation for a criminal history
24 records check. The fingerprint criminal history records checks will be
25 at the expense of the licensee except that in the case of a foster
26 family home, if this expense would work a hardship on the licensee, the
27 department shall pay the expense. The licensee may not pass this cost
28 on to the employee or prospective employee, unless the employee is
29 determined to be unsuitable due to his or her criminal history record.
30 The secretary shall use the information solely for the purpose of
31 determining eligibility for a license and for determining the
32 character, suitability, and competence of those persons or agencies,
33 excluding parents, not required to be licensed who are authorized to
34 care for children, expectant mothers, and developmentally disabled
35 persons. Criminal justice agencies shall provide the secretary such
36 information as they may have and that the secretary may require for
37 such purpose;

1 (c) The number of qualified persons required to render the type of
2 care and treatment for which an agency seeks a license;

3 (d) The safety, cleanliness, and general adequacy of the premises
4 to provide for the comfort, care and well-being of children, expectant
5 mothers or developmentally disabled persons;

6 (e) The provision of necessary care, including food, clothing,
7 supervision and discipline; physical, mental and social well-being; and
8 educational, recreational and spiritual opportunities for those served;

9 (f) The financial ability of an agency to comply with minimum
10 requirements established pursuant to chapter 74.15 RCW and RCW
11 74.13.031; and

12 (g) The maintenance of records pertaining to the admission,
13 progress, health and discharge of persons served;

14 (3) To investigate any person, including relatives by blood or
15 marriage except for parents, for character, suitability, and competence
16 in the care and treatment of children, expectant mothers, and
17 developmentally disabled persons prior to authorizing that person to
18 care for children, expectant mothers, and developmentally disabled
19 persons. However, if a child is placed with a relative under RCW
20 13.34.065 or 13.34.130, and if such relative appears otherwise suitable
21 and competent to provide care and treatment the criminal history
22 background check required by this section need not be completed before
23 placement, but shall be completed as soon as possible after placement;

24 (4) On reports of alleged child abuse and neglect, to investigate
25 agencies in accordance with chapter 26.44 RCW, including child day-care
26 centers and family day-care homes, to determine whether the alleged
27 abuse or neglect has occurred, and whether child protective services or
28 referral to a law enforcement agency is appropriate;

29 (5) To issue, revoke, or deny licenses to agencies pursuant to
30 chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the
31 category of care which an agency is authorized to render and the ages,
32 sex and number of persons to be served;

33 (6) To prescribe the procedures and the form and contents of
34 reports necessary for the administration of chapter 74.15 RCW and RCW
35 74.13.031 and to require regular reports from each licensee;

36 (7) To inspect agencies periodically to determine whether or not
37 there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the
38 requirements adopted hereunder;

1 (8) To review requirements adopted hereunder at least every two
2 years and to adopt appropriate changes after consultation with affected
3 groups for child day-care requirements and with the children's services
4 advisory committee for requirements for other agencies; (~~and~~)

5 (9) To engage in negotiated rule making pursuant to RCW
6 34.05.310(2)(a) with the exclusive representative of the family child
7 care licensees selected in accordance with section 6 of this act and
8 with other affected interests before adopting requirements that affect
9 family child care licensees; and

10 (10) To consult with public and private agencies in order to help
11 them improve their methods and facilities for the care of children,
12 expectant mothers and developmentally disabled persons.

13 PART III - GENERAL PROVISIONS

14 NEW SECTION. **Sec. 9.** Part headings used in this act are not any
15 part of the law.

16 NEW SECTION. **Sec. 10.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected.

20 NEW SECTION. **Sec. 11.** If any part of this act is found to be in
21 conflict with federal requirements that are a prescribed condition to
22 the allocation of federal funds to the state, the conflicting part of
23 this act is inoperative solely to the extent of the conflict and with
24 respect to the agencies directly affected, and this finding does not
25 affect the operation of the remainder of this act in its application to
26 the agencies concerned. Rules adopted under this act must meet federal
27 requirements that are a necessary condition to the receipt of federal
28 funds by the state.

29 NEW SECTION. **Sec. 12.** This act may be known and cited as the
30 access to quality family child care act.

31 NEW SECTION. **Sec. 13.** Sections 1 through 5 of this act are

1 necessary for the immediate preservation of the public peace, health,
2 or safety, or support of the state government and its existing public
3 institutions, and take effect immediately."

E2SHB 2353 - S COMM AMD

By Committee on Labor, Commerce, Research & Development

ADOPTED 02/28/2006

4 On page 1, line 3 of the title, after "licensees;" strike the
5 remainder of the title and insert "amending RCW 41.56.030, 41.56.113,
6 41.04.810, 43.01.047, and 74.15.030; reenacting and amending RCW
7 74.15.020; adding a new section to chapter 41.56 RCW; adding a new
8 section to chapter 74.15 RCW; creating new sections; and declaring an
9 emergency."

EFFECT: (1) The definition of collective bargaining is amended to read: "Notwithstanding the definition of "collective bargaining" in RCW 41.56.030(4), the scope of collective bargaining for child care providers under this section shall be limited to solely to: (i) Economic compensation, such as manner and rate of subsidy and reimbursement, including tiered reimbursements; (ii) health and welfare benefits; (iii) professional development and training; (iv) labor-management committees; (v) grievance procedures; and (vi) other economic matters. Retirement benefits shall not be subject to collective bargaining. By such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter."

(2) Initial negotiating is to commence upon certification of an exclusive bargaining unit (versus within 5 days of the effective date of the act) and thereafter by February 1 of any even-numbered year (versus "any year prior to the year in which an existing collective bargaining agreement expires").

(3) If a collective bargaining agreement includes a union security provision, the agreement must contain a process to be administered by the exclusive bargaining representative of a bargaining unit of family child care providers, for hardship dispensation for license-exempt family child care providers who are also temporary assistance for needy families recipients or WorkFirst participants.

(4) A technical change is made to the definition of "child care subsidy" to refer to all child care subsidy programs (by reciting the specific statutes, both state and federal), rather than only the child care subsidy program for child welfare cases.

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